IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 12908 of 2002

Between:

Syed Khasim, S/o.Syed Meeran

Occ:Business/Contractor

R/o.1/06/0712/1,

Zamistanpur, Musheerabad,

Hyderabad

..... PETITIONER

AND

1. The Secretary, Ministry of External Affairs,

Government of India,

Central Secretariat, New Delhi

2. The Regional Passport Officer,

Secunderabad, Andhra Pradesh

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus directing the respondents to accept the fresh application on payment of required fee and issue fresh passport to the petitioner duly incorporating the date of birth as per the evidence, i.e., S.S.C. Certificate of the petitioner issued by the Board

of Secondary Education in proof of the petitioner's correct date of birth as 13.4.1966 in the place of 5.11.1959 which is incorrect to enable the petitioner to avail the job opportunity at Abroad.

Counsel for the Petitioner:MR.K.RAVINDER RAO

Counsel for the Respondents 1 and 2: MR.A. RAJASEKHAR REDDY (SC FOR CG)

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12908 OF 2002

ORDER:

This writ petition is filed seeking a Writ of Mandamus directing the respondents to accept the fresh application on payment of required fee and issue fresh passport to petitioner duly incorporating his correct date of birth as 13.4.1966 instead of 5.11.1959 as per his S.S.C. Certificate issued by the Board of Secondary Education.

Though interlocutory applications are listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard finally and is being disposed of.

It is the case of the petitioner that he was born on 13.4.1966. In 1985, he applied for passport. A passport bearing No.U 388084 was issued on 23.5.1985 showing his date of birth as 5.11.1959. In the year 1995 he applied for renewal of his passport and the same was renewed. As his date of birth was wrongly mentioned in the passport, he approached the second respondent with a request to change the date of birth in the passport. The second respondent refused to correct the date of birth of petitioner. Hence, the present Writ Petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 13.4.1966. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dated 18-4-2001.

Following the judgment of this Court in ***Ali Imran*** (supra), this writ petition is also disposed of directing the second respondent to consider the application of the petitioner along with the Secondary School Certificate No.519837 issued by the Secretary, Board of Secondary Education, Andhra Pradesh, and to pass appropriate orders in the light of the observations made in the above judgment. There shall be no order as to costs.

_____

(V.V.S.RAO, J)

4.11.2004

bnr

To

1. The Secretary, Ministry of External Affairs,

Government of India, Central Secretariat,

New Delhi

2. The Regional Pass Port Officer,

Near Clock Tower,

Secunderabad, Andhra Pradesh

3. 2 CD copies.